THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17173 OF 2007

ORAL ORDER:

The petitioner herein was appointed as the authorized dealer of the fair price shop of Nakkapalli following due process of selection pursuant to the notification dated 30.5.2005. Aggrieved by the said order of appointment, the respondents 4 and 5 herein, who are the unsuccessful candidates, preferred an Appeal before the 2nd respondent contending *inter alia* that the writ petitioner who is carrying on business in rice and other food grains is not eligible for appointment as the fair price shop dealer. It was also alleged that the petitioner's father was working as Kalasi in the Nakkapalli Mandal Civil Supplies Godown and, therefore, on that ground also the petitioner is disqualified for appointment as the fair price shop dealer.

Both the said grounds were not accepted by the 2nd respondent-appellate authority, and by order dated 21.7.2007, the Appeal was dismissed. Against the said order, the respondents 4 and 5 herein preferred a Revision before the 1st respondent. Having entertained the Revision, the 1st respondent by order dated 6.8.2007 granted interim stay. Hence, this writ petition seeking a declaration that the order of stay granted by the 1st respondent is arbitrary and illegal.

I have heard the learned counsel for the petitioner, learned Government Pleader for Civil Supplies appearing for the respondents 1 to 3, and the learned counsel appearing for the respondents 4 and 5.

It is to be noted that the Appeal preferred by the respondents 4 and 5 against the order of appointment of the petitioner herein as the fair price shop dealer was dismissed of by the 2nd respondent-Joint Collector after hearing all the parties concerned and recording a clear finding that the alleged disqualification suffered by the petitioner was incorrect and without any basis.

It is true that the correctness of the findings recorded by the 2nd respondent is the subject matter of Revision pending before the 1st respondent.

It is also true that as per Clause 21 of Andhra Pradesh State Public Distribution System Control Order, 2001, the 1st respondent is empowered to direct that the order under Revision shall not be given effect to until the Revision is disposed of. However, having regard to the findings recorded in favour of the petitioner, I am of the opinion that the 1st respondent is not justified in granting the impugned order of stay without notice to the petitioner. Particularly in view of the fact that the writ petitioner was already issued the authorization and was also allowed to distribute the commodities for the month of August, the impugned order of stay without notice to the petitioner was illegal and unwarranted, apart from being violative of the principles of natural justice. In the circumstances, the impugned order is liable to be set aside on that ground alone.

Accordingly, the impugned order dated 6.8.2007 is set aside and the writ petition is disposed of leaving it open to the 1st respondent to pass appropriate orders in accordance with law after hearing both the parties. No costs

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(G. ROHINI, J.)

14th August, 2007.
Note:
Operative portion by wire and
Issue CC in two days.
(Bo)
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17173 OF 2007

14th August, 2007.

Between:

D. Nooka Raju. .. Petitioner.

And

The Collector, Visakhapatnam District and others. .. Respondents.

WRIT PETITION No.17173 OF 2007

OPERATIVE PORTION TO GO

Accordingly, the impugned order dated 6.8.2007 is set aside and the writ petition is disposed of leaving it open to the 1st respondent to pass appropriate orders in accordance with law after hearing both the parties. No costs

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(G. ROHINI, J.)

14th August, 2007.
Note:
Operative portion by wire
(Bo)
Kgr